# Appendix A–Scoping Comments Summary

## Introduction

This report summarizes the scoping process for the Pine Bear Environmental Assessment (EA) and presents analyses based on the public comments received. The Forest Service, U.S. Department of Agriculture, Allegheny National Forest (ANF), Marienville Ranger District is proposing to implement the Pine Bear project. This project includes vegetation management, wildlife habitat improvements, non-native invasive plant species treatments, road construction and maintenance, and soil and water improvements within the 10,055-acre project area.

The scoping period began on April 16, 2010 when scoping packages were mailed to 150 interested individuals and organizations, including adjacent landowners and subsurface mineral owners. On April 16, 2010, a news release was sent to local media and the scoping package was posted on the ANF website on April 19, 2010. The Pine Bear project was listed in the ANF schedule of proposed actions (SOPA) starting with the January 2010 issue. The scoping comment period for this project ended on May 17, 2010. Comments were received from 35 respondents:

Cathy Pedlar, Erie, PA
Carl Burdick, Los Angeles, CA
Barb Kero, Whitehouse Station, NJ
Jan Federicks, Wayne, NJ
Chris Allen, Sewickley, PA
Justin Feikls, Kane, PA
Peggy Johnston, Punxsutawney, PA
Randy Francisco, Pittsburgh, PA
Nancy Callahan, Randolph, NY
John O'Brien, Eden, NY
David Meiser, Piperville, PA
Chloe Heimbuch, Pittsburgh, PA
Jeffrey Munch, Warren, PA
Megan Rulli, Girard, PA
James Hufnagel, Wilson, NY
Greg Wisenauer, Clarendon, PA
Judeth Cosgrove, Culver City, CA
Paul Swiatocha, Pittsburgh, PA
Katherine Hackney, Pittsburgh, PA
Karen Kaighin, Pittsburgh, PA
Colin H., Pittsburgh, PA
John K. and Karen A. Parana, Johnsonburg, PA
John W. Parana, Johnsonburg, PA
Jeremy Burgess, Pittsburgh, PA
Clayton Sulak, Highland Park, IL
Lori Kier, West Chester, PA
William Ricci, Havertown, PA
Sherry Shultze, Cuba, NY
Sarah Green, Athens, OH
Jerrod Markle, Butler, PA
Rachael Nees, Orchard Park, NY
David Barlup, York, PA
Duane Short, Laramie, WY
Allegheny Defense Project, Kane, PA
Dan Smrekar, DuBois, PA

Thirty-three (33) of the respondents submitted the same email comments (form letter); one letter contained additional comments. The respondents' comments are included in the project file. The sections below summarize the content analysis of the public scoping comments for the Pine Bear project and include the following:

I. Issues
   A. Preliminary Issues Raised by the Public
   B. Significant and Non-significant Issues
   C. Non-issue Comments, Questions, and Requests
   D. Indicator Measures

II. Alternatives
   A. Alternatives Suggested by the Public
   B. Range of Alternatives to be Studied in Detail
   C. Alternatives Considered but Eliminated from Detailed Study

# I. Issues

## A. Preliminary Issues Raised by the Public

An issue is defined as a point of disagreement, debate or dispute with the proposed action based on some anticipated effect. Preliminary issues will be categorized into significant and non-significant issues later in this summary.

1. Bear Creek is classified as a High Quality, Cold Water Fishery, which must be afforded special protection (form letter).

   The proposed action in the Pine Bear project will damage these streams and creeks with increased runoff and siltation, stream warming from canopy openings, and pollution from herbicide applications (form letter and Allegheny Defense Project).

   Within the Pine Bear project boundary are high quality aquatic habitats, which will be adversely affected by the actions proposed in the Pine Bear project (e.g., by clearcutting, and herbiciding) (form letter).

   High-Quality, Cold Water Fisheries; and Naturally Reproducing Trout Streams. Within the Pine Bear project boundary are high quality aquatic habitats, which will be adversely affected by the actions proposed in the Pine Bear project (e.g., by clearcutting, and herbiciding). Bear Creek is classified as a High Quality, Cold Water Fishery, which must be afforded special protection. Additionally, the Pennsylvania Fish And Boat Commission recognizes Bear Creek as well as the streams and creeks listed below as Naturally Reproducing Trout Streams.

| Stream | Tributary to |
|---|---|
| Bear Creek | Clarion River |
| Pigeon Run | Bear Creek |
| Maple Run | Bear Creek |
| Pine Run | Bear Creek |
| Twin Lick Run | Bear Creek |
| Red Lick Run | Bear Creek |

   These important aquatic habitats must be protected … In particular, the proposal to cut trees along miles of stream must be carefully analyzed in an EIS. The Forest Service acknowledges that such actions could

result in reduced stream shading, which could obviously diminish the habitat goals of introducing large woody debris to the streams (Allegheny Defense Project).

… the following specific Compartments and their respective Stands must be dropped from the Pine Bear Project due to their proximity to the HQ Cold Water Fishery of Bear Creek:

Compartment 864/857, Stands 1, 3, 4, 5, 7, 10, 12, 17, 24, 33, 36, 42, 44, 46, 52, 55, 56, 57, 58, 75, 77, 81,122: Proximity to Bear Creek and Pigeon Run

Compartment 865, Stands 2, 41, 56, 65, 75: Proximity to Bear Creek

Compartment 871, Stands 8, 23, 24, 35, 38, 41, 42, 57, 72, 80, 83, 84, 86: Proximity to Bear Creek

Compartment 874, Stands 2, 4, 5, 6, 8, 18, 22, 23, 32, 33, 34, 35, 39, 40, 48, 26, 28, 51: Proximity to Maple Run and Bear Creek

Compartment 875, Stands 7: Proximity to Red Lick Run

Compartment 879, Stands 1, 27, 46, 47: Proximity to Red Lick Run

Compartment 880, Stands 6, 24, 25, 29, 34, 35, 39, 45, 46, 54, 62, 64, 66, 67: Proximity to Twin Lick Run and Pine Run

Compartment 881, Stands 13, 17, 22, 45, 46, 61: Proximity to Pine Run

Compartment 882/872, Stands 2, 3, 6, 10, 12, 14, 23, 30, 37, 39, 41, 42, 43, 49, 58, 104: Proximity to Bear Creek, Maple Run, and Pigeon Run

Compartment 873, Stands 2, 10, 13, 14, 17, 23, 25, 26, 29, 30, 38, 41, 47: Proximity to Bear Creek and Pigeon Run

Compartment 887, Stands 7, 4, 30, 34, 45: Proximity to Bear Creek and Bloody Run

Compartment 889, Stands 14, 21, 25, 26, 37, 43: Proximity to Red Lick Run (Allegheny Defense Project) (Preliminary Issue 1)

2. … the Forest Service predicts that the Pine Bear Project area will see "full mine out" conditions (i.e., oil and gas wells placed every 500 feet with infrastructure of roads, tank batteries, etc.) within the foreseeable future. The Pine Bear Project area has already been heavily impacted by OGD.

   …Given the impact of past OGD, and OGD that is predicted for the foreseeable future, it will be impossible for the US Forest Service to maintain the other goals outlined in the LRMP below, especially without first conducting an EIS on the Pine Bear Project.

   - To provide a diversity of vegetation patterns across the landscape to represent well- distributed habitats, a range of forest age classes and vegetative stages, a variety of healthy functioning vegetation layers, moderate-to-well stocked forest cover, and the variety of vegetation species and forest types necessary to achieve multiple resource objectives and sustain ecosystem health (ANF LRMP, p. 14).

   - To provide forage and cover for a variety of wildlife species through habitat enhancements. To contribute to the conservation and enhancement of habitat integrity for species with viability concerns by protecting specific habitat elements crucial to the long-term sustainability of species.

To provide nesting sites, breeding areas and young-rearing habitat free from human disturbance for species with viability concerns (ANF LRMP, p 14).

- To implement non-native invasive plant (NNIP) species treatments that would limit the introduction and/or spread of NNIP species, and conserve forest resources in a manner that presents the least hazard to humans and maintains or restores forest resources (ANF LRMP, p. 13).

- To provide a safe, efficient, and economical transportation system that is responsive to public and administrative needs; having minimal adverse effects on ecological processes and ecosystem health, diversity, and productivity; and is in balance with needed management actions (ANF LRMP, p 16).

- To maintain, restore, or improve soil quality, productivity, and function. Manage soil disturbances from management activities such that they do not result in long-term loss of inherent soil quality and function (ANF LRMP, p.14).

- To maintain or restore watersheds and their associated stream and groundwater processes, channel stability, riparian resources, and aquatic habitats to a functional condition (ANF LRMP, p.14).

- To contribute to the desired condition by providing predominantly late structural forest habitat that links relatively large areas of older forest, or core areas, across the landscape. Vegetative management would provide complex late structural forest conditions and maintain mast-producing species (ANF LRMP, pp. 109–112) (Allegheny Defense Project) (Preliminary Issue 2).

3. …There are at least three Marcellus Shale gas-drilling operations adjacent to this area, two in Gamelands 28, and one north of the project area, off of Road 4009. The impact to the Pine Bear Project area, which contains Bear Creek and its tributaries (a High Quality-Cold Water Fishery), from all of the oil and gas drilling (i.e., past, current, and predicted) including effects of fragmentation, water withdrawal, erosion and sedimentation, and air quality must be considered cumulatively with the effects of the proposed action in an EIS (Allegheny Defense Project)

   At the rate our forests are being destroyed by the oil and gas industry over Marcellus Shale development, we need to preserve all the other areas. I have no problem with logging but if the drilling industry gets their way in the next few years, we could lose over 35% of all forests in Pennsylvania. That doesn't include the damage of forest fragmentation (Parana) (Preliminary Issue 3).

4. …The U.S Forest Service states that it will use "timber harvest (intermediate thinning) to accelerate development of mature forest conditions in M.A. 2.2." However, structure is not the only element operating in a 'mature' forest. Mimicking a mature forest structure, but not allowing for a mature forest process does not equate to a mature forest ecosystem. As former Sierra Club PA Chapter Public Lands Chair Sam Hays noted, "the Allegheny Forest Service continues to try to get mature forests by cutting the mature trees never arriving at its stated goal of a mature forest."… (Allegheny Defense Project) (Preliminary Issue 4).

5. Expanding and Adding Stone Pits, Adding Roads. With over 3,000 miles of road, over 300 stone pits, and 15,000 active oil and gas wells the ANF distinguishes itself as likely the most industrialized forest in the FS system. Expansion or addition of pits and roads is irresponsible and continues to destroy the other uses of the forest (not to mention the ecosystem) except for the extractive use (Allegheny Defense Project) (Preliminary Issue 5).

## B. Significant and Non-significant Issues

**Significant Issues**
Significant issues are used to formulate alternatives, prescribe mitigation measures, or analyze environmental effects. Issues are "significant" because of the extent of their geographic distribution, the duration of their effects, or the intensity of interest or resource conflict. One significant issue was identified by the ID team from the scoping comments and is listed below.

1. **Expansion or addition of pits and roads … and continues to destroy the other uses of the forest and should be stopped (Allegheny Defense Project) (Preliminary Issue 3).**

**Non-significant Issues**
These are issues which are not used in the environmental analysis. A reason must be cited. Reasons may include:

- The issue is outside the scope of the proposed action.
- The issue is already decided by law, regulation, Forest Plan, or other higher level decision.
- The issue is irrelevant to the decision to be made.
- The issue is conjectural and not supported by factual evidence.

**1.** The proposed action in the Pine Bear project will damage these streams and creeks with increased runoff and siltation, stream warming from canopy openings, and pollution from herbicide applications.

As a avid fly fisherman I find Bear Creek is a wonderful stream, but I believe is stressed by mounting other environmental problems, and to add clear cuts to the headwaters does not sound like the forest officials are practicing good stewardship.

Within the Pine Bear project boundary are high quality aquatic habitats, which will be adversely affected by the actions proposed in the Pine Bear project (e.g., by clearcutting, and herbiciding).

High-Quality, Cold Water Fisheries; and Naturally Reproducing Trout Streams. Within the Pine Bear project boundary are high quality aquatic habitats, which will be adversely affected by the actions proposed in the Pine Bear project (e.g., by clearcutting, and herbiciding). Bear Creek is classified as a High Quality, Cold Water Fishery, which must be afforded special protection. Additionally, the Pennsylvania Fish And Boat Commission recognizes Bear Creek as well as the streams and creeks listed below as Naturally Reproducing Trout Streams.

| Stream | Tributary to |
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These important aquatic habitats must be protected … In particular, the proposal to cut trees along miles of stream must be carefully analyzed in an EIS. The Forest Service acknowledges that such actions could result in reduced stream shading, which could obviously diminish the habitat goals of introducing large woody debris to the streams.

… the following specific Compartments and their respective Stands must be dropped from the Pine Bear Project due to their proximity to the HQ Cold Water Fishery of Bear Creek:

Compartment 864/857, Stands 1, 3, 4, 5, 7, 10, 12, 17, 24, 33, 36, 42, 44, 46, 52, 55, 56, 57, 58, 75, 77, 81,122: Proximity to Bear Creek and Pigeon Run

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Compartment 889, Stands 14, 21, 25, 26, 37, 43: Proximity to Red Lick Run (Preliminary Issue 1).

***Response:*** *This is a non-significant issue because it is conjectural and not supported by factual evidence. Forest Service agrees that "these important aquatic habitats must be protected." ANF Forest Plan standards and guidelines, Pennsylvania BMPs, and project design features will be followed to protect streams and wetlands from potential runoff, siltation, and herbicide application. In the stands that you referenced, riparian buffers will be applied to streams and wetlands to maintain stream shading and to maintain water quality. For instance, commercial timber harvests will not occur within a 100-foot perennial stream buffer or within a 50-foot intermittent stream buffer. The purpose for felling trees is to improve aquatic habitat diversity, trap sediment, and slow flood flows. This is a riparian improvement prescription that was analyzed in the FEIS for the 2007 ANF Forest Plan (pp. 3-22–3-51). Trees within 10 feet of the high water mark of the stream channel would not be cut. While large wood recruitment is proposed along approximately 16 miles of streams, this activity "would only occur where large woody debris is lacking and where trees are available to be felled without reducing stream shading"(Pine Bear scoping letter, p. 10). Therefore, it is anticipated that there will be areas along these streams where trees will not be felled for large wood introductions due to lack of trees or due to the presence of existing woody debris in the streams. Based on recent aquatic habitat inventories and expected needs in streams, it is anticipated that the need to fell trees in streams to meet aquatic habitat goals could be reduced from 80 to 120 trees per mile to 25 to 50 trees per mile*

**2.** … the Forest Service predicts that the Pine Bear Project area will see "full mine out" conditions (i.e., oil and gas wells placed every 500 feet with infrastructure of roads, tank batteries, etc.) within the foreseeable future. The Pine Bear Project area has already been heavily impacted by OGD.

…Given the impact of past OGD, and OGD that is predicted for the foreseeable future, it will be impossible for the US Forest Service to maintain the other goals outlined in the LRMP below, especially without first conducting an EIS on the Pine Bear Project.

- To provide a diversity of vegetation patterns across the landscape to represent well- distributed habitats, a range of forest age classes and vegetative stages, a variety of healthy functioning vegetation layers, moderate-to-well stocked forest cover, and the variety of vegetation species and forest types necessary to achieve multiple resource objectives and sustain ecosystem health (ANF LRMP, p. 14).

- To provide forage and cover for a variety of wildlife species through habitat enhancements. To contribute to the conservation and enhancement of habitat integrity for species with viability concerns by protecting specific habitat elements crucial to the long-term sustainability of species. To provide nesting sites, breeding areas and young-rearing habitat free from human disturbance for species with viability concerns (ANF LRMP, p 14).

- To implement non-native invasive plant (NNIP) species treatments that would limit the introduction and/or spread of NNIP species, and conserve forest resources in a manner that presents the least hazard to humans and maintains or restores forest resources (ANF LRMP, p. 13).

- To provide a safe, efficient, and economical transportation system that is responsive to public and administrative needs; having minimal adverse effects on ecological processes and ecosystem health, diversity, and productivity; and is in balance with needed management actions (ANF LRMP, p 16).

- To maintain, restore, or improve soil quality, productivity, and function. Manage soil disturbances from management activities such that they do not result in long-term loss of inherent soil quality and function (ANF LRMP, p.14).

- To maintain or restore watersheds and their associated stream and groundwater processes, channel stability, riparian resources, and aquatic habitats to a functional condition (ANF LRMP, p.14).

- To contribute to the desired condition by providing predominantly late structural forest habitat that links relatively large areas of older forest, or core areas, across the landscape. Vegetative management would provide complex late structural forest conditions and maintain mast-producing species (ANF LRMP, pp. 109–112) (Preliminary Issue 2).

***Response:*** *This is a non-significant issue because it is conjectural and unsupported with factual evidence. Reasonably foreseeable actions on National Forest System and private lands within the cumulative effects boundaries will be analyzed in the EA. Cumulative impacts from OGD within the project area will be analyzed along with Forest Service proposals. Full field development was one of the scenarios considered for cumulative impacts from OGD within the project area. However, it was not selected because there are no indications that industry is planning full field development in this area at this time; therefore, it would be speculative to analyze this level of development for reasonably foreseeable future actions. It is also not possible to determine how long it would take for full field development to occur. Forest Service proposals are designed to meet the purpose and need in Management Areas (MAs) 2.2 and 3.0, which include providing predominately late structural forest habitat in MA 2.2 and improving the spatial arrangement of age classes in MA 3.0. All Forest Service proposals will follow ANF Forest Plan standards and guidelines. This direction meets or exceeds Pennsylvania Best Management Practices (BMPs). The Forest Service works cooperatively with the OGD operators to reduce or eliminate impacts to surface resources. The no action alternative is responsive to this request. See response no non-issue 1 for need to do an EIS.*

**3.** …There are at least three Marcellus Shale gas-drilling operations adjacent to this area, two in Gamelands 28, and one north of the project area, off of Road 4009. The impact to the Pine Bear Project area, which contains Bear Creek and its tributaries (a High Quality-Cold Water Fishery), from all of the oil and gas drilling (i.e., past, current, and predicted) including effects of fragmentation, water withdrawal, erosion and sedimentation, and air quality must be considered cumulatively with the effects of the proposed action in an EIS

At the rate our forests are being destroyed by the oil and gas industry over Marcellus Shale development, we need to preserve all the other areas. I have no problem with logging but if the drilling industry gets their way in the next few years, we could lose over 35% of all forests in Pennsylvania. That doesn't include the damage of forest fragmentation (Preliminary Issue 3).

***Response:*** *See response to non-significant issue 2. Potential cumulative effects to habitat fragmentation, water quality and quantity, soil erosion and sedimentation, and air quality will be addressed in the EA. This is not an oil and gas proposal.*

**4.** …The U.S Forest Service states that it will use "timber harvest (intermediate thinning) to accelerate development of mature forest conditions in M.A. 2.2." However, structure is not the only element operating in a 'mature' forest. Mimicking a mature forest structure, but not allowing for a mature forest process does not equate to a mature forest ecosystem. As former Sierra Club PA Chapter Public Lands Chair Sam Hays noted, "the Allegheny Forest Service continues to try to get mature forests by cutting the mature trees never arriving at its stated goal of a mature forest."… (Preliminary Issue 4).

***Response:*** *We recognize that there are different approaches to achieving various late successional values. These approaches may include both passive and more active management and will consequently result in achievement of different attributes of late structural values over different time frames. This is discussed in some detail on pages 3-142–3-144 of the Forest Plan FEIS (USDA-FS 2007b.*

*There is a growing body of literature related to using silvicultural techniques to accelerate or hasten the development of selected old growth characteristics or conditions (USDA-FS 2007b, p. 3-143). Also, it is recognized that some old growth attributes are dependent on site, natural disturbance, and time (USDA-FS-2007b, p. 3-143). The strategy within MA 2.2 is to use a combination of active and passive management. For example, while approximately 19 percent of MA 2.2 (USDA-FS 2007a, pp. 25–26 and USDA-FS 2007b, p. 3-153) may receive some form of timber harvest to achieve one of the above objectives over the next 60 years, approximately 50 percent of MA 2.2 will be passively managed with no active management (USDA-FS 2007b, p. 3-152).*

*The Forest Plan, Appendix A (USDA-FS 2007a, pp. A-26–A-27), and Forest Plan FEIS (USDA-FS 2007b, pp. 3-142–3-144) contain several references to the reasons for conducting intermediate thinning to accelerate development of mature forest conditions. Equally important is the Forest Plan FEIS discussion describing the anticipated effects of passive management (2007b, pp 3-164–166, 3-169, 3-173, and 3-174).*

*Thinning to accelerate mature forest conditions (AMFC) is variable density thinning (USDA-FS 2007a, p. A-26–A-27). This treatment is designed to accelerate development of mature forest conditions, such as larger trees and variable tree density, by removing individual trees, generally pole or small-sawtimber sized in a non-uniform manner. This treatment would reduce canopy density and competition between trees, resulting in more rapid development of larger diameter trees with enlarged crowns than would occur naturally over time. Providing mature forest conditions is the goal of the treatment, secondary benefits are that the trees will have improved health and vigor as a result of the thinning and be more resilient to insect and disease attacks, while the larger crowns will produce more mast for wildlife consumption.*

## C. Non-Issues: Comments, Questions, and Information Requests

Non-issues are comments that do not identify a dispute with the proposed action based on some anticipated effect. Non-issues also include opinions, comments on the National Environmental Policy Act (NEPA) process used and requests for further information or other documents. They are presented verbatim or summarized as appropriate.

**1.** The USFS must conduct an Environmental Impact Statement (EIS) to determine the impact of the project on these important aquatic habitats and on the species that inhabit them **(form letter)**.

***Response****: This comment is a non-issue because it does not express a clear dispute with the proposed action based on some anticipated effect. This is a NEPA procedural issue. NEPA requires that Federal agencies follow certain procedures to examine the environmental impact of their proposed actions. If the agency proposes a "major Federal action [that] significantly affect[s] the quality of the human environment," NEPA requires the agency prepare an EIS that, among other things, details "the environmental impact of the proposed action." An EIS, however, is not required if the agency first prepares an environmental assessment (EA) providing "sufficient evidence and analysis" that an EIS is not necessary because the proposed action will not significantly affect the quality of the human environment (40 CFR 1508.9).*

**2.** There has already been extensive drilling damage (with more predicted in the near future), and considerable logging impacts in the Bear Creek watershed. A project of the scale proposed in Pine Bear must include an EIS to determine the cumulative impacts of OGD, past logging activities, and the proposed timbering actions in the Bear Creek watershed **(form letter)**.

***Response:*** *Please see response to non-significant issue 2. Potential cumulative effects from future OGD will be considered along with Forest Service proposals in the EA.*

*The respondents contend that the "scale" of the proposed action warrants an EIS. In the context of the ANF as a whole, the Pine Bear proposed actions are small (the Pine Bear project area consists of about 2 percent of the ANF). Neither NEPA nor CEQ regulations (40 CFR 1500) mandate size considerations in determining whether or not an agency should prepare an EIS. The measure provided is an action's potential for "significant environmental impacts." CEQ regulations detail how agencies should fulfill NEPA obligations in preparing a finding of no significant impact (FONSI). CEQ regulations require consideration of context and 10 intensity factors in determining significance (40 CFR 1508.27). Based on the EA, the federal agency (responsible official) shall determine whether an EIS is required. Potential cumulative effects for the project, including past, present, and reasonably foreseeable future timber harvests, road activities, and OGD, will be discussed in the environmental consequences section of the EA.*

**3.** There must also be a plan for the restoration of the impacted area **(form letter)**.

***Response (clarification):*** *The Forest Service will prepare appropriate "restoration plans", such as KV plans, pit reclamation plans, oil and gas access road and well site decommissioning, etc. for its proposed activities.*

**4.** I could not find the project on your website **(Smrekar).**

***Response (information):*** *Scoping documents were posted to the ANF website on April 19, 2010 at* http://www.fs.fed.us/r9/forests/allegheny/projects/vegetative_management/pine_bear/index.php.

**5.** Having enjoyed the scenery and recreational opportunities in that area most of my adult life, I think it is safe to say the project of that magnitude is based primarily on economics. Thus, I think the ANF

must get the most out of the sale of the natural resources as possible even if the time frame could take longer than usual **(Smrekar)**.

***Response****: This comment is a non-issue because it does not express a clear dispute with the proposed action based on some anticipated effect.*

**6.** Should there be discussion of preparing an environmental impact statement of the Pine Bear Project I would like to be notified **(Smrekar).**

***Response****: This comment is a non-issue because it does not express a clear dispute with the proposed action based on some anticipated effect. Respondent has been added to the mailing list for this project and will receive any and all future public mailings, notifications, etc.*

**7.** To dismiss the under story layer of plants in those 6,000 acres would be a sin. I would like to see a hiring of college students to inventory the area and for the USDA to place a reasonable selling price on catalogued specific plants and where they can be located. I would like to see those plants sold publicly for a fair price, rather then be dismissed under the blades and wheels of bulldozers and skidders. Also I would want to see each tree priced, catalogued and sold individually under the best supervision of the Allegheny National Forest. Then, later announce clear cut sales or whatever. I believe, without having any facts, that the USDA would get three times the projected revenue and a bunch of people needing money would have jobs. Other people would obtain natural resources they have always coveted **(Smrekar)**.

***Response:*** *This comment is a non-issue because it does not express a clear dispute with the proposed action based on some anticipated effect. The Forest Service does not "dismiss the under story layer of plants in those 6,000 acres". Proposed silvicultural and non-native invasive plant treatments are designed to meet Forest Plan desired conditions, goals and objectives relating to maintaining age class and plant species diversity. Areas proposed for vegetation management activities have or will be surveyed and resurveyed for ground layer plant species as proposed activities are implemented. Surveys in proposed areas, conducted to date, have shown that many are currently lacking understory plant diversity for example, stands with dense understories of hay-scented fern (Dennstaedtia punctilobula). Understory plants are not, "dismissed under the blades and wheels of bulldozers and skidders" as they provide the progule source, either seeds or roots, for maintaining understory plant diversity and wholesale removal as the respondent suggests is not desirable. Soil disturbance would occur on less than 15 percent of the activity areas (USDA-FS 2005b, p.6).*

*The pricing, cataloging, and selling of individual trees, except for the sale of a small number of trees under special circumstances, is neither practical nor efficient, in terms of time or costs involved, when a typical timber sale involving numerous timber stands may involve several thousand trees. The Code of Federal Regulations (CFR) at Title 36 -Parks, Forests, and Public Property, requires that the Forest Service by appraisal determine fair market value of the timber prior to its sale (36 CFR 223.60 - Determining fair market value). Eastern National Forests are authorized to use transaction evidence data resulting from competitive bidding to determine fair market value along with evaluation of sale specific conditions, including prices paid for comparable timber, selling value of products produced, operating costs, operating difficulties, and quality of timber. Considerations and valuations may recognize and adjust for factors which are not normal market influences. Pursuant to 36 CFR 223.63 - Advertised rates, timber shall be advertised for sale at its appraised value.*

*Competitive sales of National Forest timber are offered through either sealed or oral auction bidding as required by 36 CFR 223.88 - Bidding methods. The method chosen for each sale will: 1) insure fair and open competition; 2) insure that the Federal Government receives not less than fair market value for the public resource; and 3) consider the economic stability of communities whose economies are dependent upon National Forest timber. For eastern National Forests, the return to the*

*Government is enhanced by competitive, sealed bidding. The Forest Services cooperates with the Small Business Administration and monitors sales to insure that bona fide small businesses receive a significant share of sawlog size timber.*

**8.** Also, since there are projected clear cuts, it would behoove the Allegheny National Forest people to identify and relocate in the best manner all reptiles and amphibians that would not survive the intense change of habitat **(Smerkar).**

***Response:*** *The respondent's concern for amphibians and reptiles is obvious and not without merit in that many cold-blooded vertebrates are being threatened world-wide by a variety of agents ranging from climatic change, diseases, loss of habitat, pollution, etc. However, considering the potential magnitude of the work (number of individuals to capture), the complexity associated with locating each species, as well as the cost and time needed (even using volunteers) make carrying out such an endeavor quite impractical if not impossible.*

*Final regeneration harvests are typically the result of a successful shelterwood cut, an intermediate harvest made 3 to 5 years earlier, where up to one-third of the forest canopy is removed, permitting increasing amounts of sunlight to reach the forest floor to stimulate the establishment and growth of tree seedlings. Based on mark and recapture data collected by the Northeastern Research Station (NRS), it is estimated that Allegheny hardwood shelterwoods support an average of 15,680 amphibians and reptiles per hectare, with the red-backed salamander (Plethodon cinereus), is by far, the most common species (Linda Ordiway, NRS). These estimates are consistent with the 18,486 individuals per hectare in the North Carolina Appalachians using removal sampling (Petranka and Murray, Journal of Herpetology 2001) and Howard's 1987 study where 22,000 per hectare were found in North Carolina using mark and recapture methodology. Ordiway's estimates are considered about average or slightly below average compared to New York regional estimates held by Dr. James Gibbs (SUNY ESF) and lead author of "Reptiles and Amphibians of New York" (Scott Stoleson, NRS).*

*There are other factors to consider with an undertaking of this nature. Iit is believed that at any one time, only 20 percent of terrestrial salamanders are on or at the surface, thus, 80 percent of the remaining individuals would have be to excavated (to be 'rescued') resulting in habitat destruction. The Wherle's salamander and timber rattlesnake often occupy rock crevices which would require destroying the habitat to extract the species. Similarly, Ambystoma salamanders den in rotting logs where extraction would result in destroying these micro-environments. In addition, once captured, significant questions would arise as to how to shelter, feed, and successfully relocate individuals.*

*In order to possibly ease some of the initial concern, one might consider the following factors. Shelterwood cuts could be considered a 'transition' condition that may have an effect of partially preparing those local species for the intense change in habitat that comes with a final harvest. With the exception of the machinery use and the removal of merchantable wood products, final regeneration harvest mimic the physical and environmental effects species experience in severe blow-down (wind-throw) conditions. These dramatic site-changes have been occurring across the upper Allegheny plateau for thousands of years and amphibians and reptiles have developed adaptations for surviving these disturbances. On a stand basis, forest management requires that less that 15 percent of a final harvest may be affected by skidding activity (direct impact from machinery). Except for the change in forest canopy, 85 percent or more of a harvest unit remain free of the effects of heavy equipment use. On a watershed scale, on average in management areas where timber production is emphasized, final harvests affect up to 10–12 of the area about every 10 years. As a result, 90 percent of amphibian and reptile habitat within a watershed experiences little change. On a landscape, forest-wide scale, approximately 40 percent of the ANF emphasizes vegetation management other than final harvests. Management Area 2.2 provides corridors of mature forest linking large blocks of mature interior forest habitat facilitating the movement of species. Forest Plan standards and guidelines,*

*management area direction and project-level design criteria protect unique and critical habitat features for species with viability concerns including amphibians and reptiles.*

**9.** Under a concern of accountability, I would want public documentation where the resource would likely end up. I'm sure the foresters have relationships with the buyers and probably know whether a tree is likely to end up supporting a sweatshop in China or as beam in a hospital in Haiti or in an area community building. Plant species could go to homeowners, greenhouses, gardeners, state and private forests or any number of places **(Smerkar)**.

***Response:*** *This comment is a non-issue because it does not express any clear dispute with the proposed action based on some anticipated effect. Desirable understory plants are not removed as they provide the progule source, either seeds or roots, for maintaining understory plant diversity and wholesale removal as the respondent suggests is not desirable.*

*Under current timber sale contracts, accountability of individual trees or manufactured forest products from National Forest timber sales as to market destination is not required. Once the timber purchaser has paid for, cut, and removed the included timber from the sale area, title is transferred to the purchaser for those products. There is no federal regulation prohibiting the export of logs or lumber derived from National Forests east of the 100th meridian. Major export destinations of hardwood logs includes Canada, Europe, and Asia, with Canada being the largest recipient (Bulletin of Hardwood Market Statistics - 2009, USFS, Research Note NRS -74). Of course, hardwood logs and lumber are also processed in the United States for various products.*

**10.** I take writing this letter seriously. I hate seeing Allegheny National Forest giveaways at the expense of so many other people who have shares in that land **(Smerkar)**.

***Response:*** *This comment is a non-issue because it does not express any clear dispute with the proposed action based on some anticipated effect. The Forest Service receives fair market value or better for timber harvested on the ANF.*

**11.** While I realize the Allegheny National Forest is a forest and not a national park, it still has the same valuable items. I know. I spent much time as a volunteer in the ANF helping my daughter inventory all plants and mosses surrounding the nest of numerous cerulean warblers that nest in the forest only because all the trees further south were cut down **(Smerkar)**.

***Response:*** *This comment is a non-issue because it does not express any clear dispute with the proposed action based on some anticipated effect. Thank you for your volunteer work.*

**12.** I have attended numerous ANF EIS planning meetings in the past, and while I haven't been thrilled with the results of those meetings or the treatment of my ideas, I still plan to comment on forest activities in the future **(Smerkar)**.

***Response:*** *This comment is a non-issue because it does not express any clear dispute with the proposed action based on some anticipated effect. We appreciate your concern for the management of your national forest and place a high value in public participation in the project planning process.*

**13.** The Forest Service must prepare an Environmental Impact Statement. The Pine Bear Project proposes approximately 3,000 acres of even-aged logging—1,324 acres of which are clearcuts, and 1,781 acres staged clearcuts. Additionally, the project calls for 2,294 acres of other "treatments," 1,483 acres of herbiciding, 105 acres of burning every 3 to 5 years, over 500 acres of fencing, 12 acres of stone pit expansion, and 2.5 miles of new road. The scale and intensity of the proposed action must be analyzed in the context of an Environmental Impact Statement (EIS).

The Forest Service must prepare an EIS for this project. In *Curry v. U.S. Forest Service*, the Court ruled that the Forest Service violated NEPA by failing to prepare an EIS. Specifically,

> "the court agrees with plaintiffs that the magnitude of even-aged management as the predominant management technique undermine defendants' determination that the project will not have a significant impact on the human environment. The project involves in excess of 5,000 acres of the Allegheny National Forest of which 4,775 have been designated for even-aged management techniques."

In the Pine Bear Project, the Forest Service plans logging on approximately 5,399 acres of forestland. While this acreage or percentage of even-aged management relative to the overall project is not as high as it was in the Mortality II timber sale, the Forest Service must still prepare an EIS because of the intensity of this project. Returning to *Curry*, the court stated:

> "while the presence of an 'intensity' factor alone does not mandate that an EIS be prepared for a particular project, the court is compelled to conclude that, based on the number of 'intensity' factors implicated by the Mortality II Project, as well as the magnitude of the project, plaintiffs have raised 'substantial questions' regarding the issue of whether the Mortality II Project 'may' have a significant effect on the human environment."

The same applies here. The combination of the magnitude and the number of intensity factors requires the Forest Service to prepare an EIS. First, as stated, while the amount of even-aged logging is less than Mortality II, it is still much larger than both of the projects the Forest Service used in its defense to justify its decision not to prepare an EIS in that case. The court in *Curry* clearly was not persuaded…

…Additionally, regarding intensity, the northwestern portion of the project area, the Sackett area, has been heavily fragmented and impacted by oil and gas drilling.

Last year the U.S. Forest Service identified new oil and gas drilling areas in the Transition EIS to,

> "...authorize reasonable access for site-specific proposals to develop reserved and outstanding mineral rights within the Allegheny National Forest, with provisions to mitigate impacts to surface resources." (April 2010 through June 2010 SOPA).

All of these factors indicate, as the *Curry* court ruled in Mortality II, that the Forest Service must prepare an EIS for the Pine Bear Project…

…The USFS must conduct an EIS to determine the impact of the project on these important aquatic habitats and on the species that inhabit them…

… The USFS must conduct an EIS that analyzes the cumulative impacts of roads and stone pits on the health of the forest ecosystem, water quality, and species viability…

… There is no question that the U.S. Forest Service must do an EIS to determine the impact of the proposed actions in the Pine Bear project… **(Allegheny Defense Project).**

***Response**: These comments are non-issues because they do not express a clear dispute with the proposed action based on some anticipated effects. These are NEPA procedural issues. NEPA requires that Federal agencies follow certain procedures to examine the environmental impact of their proposed actions. If the agency proposes a "major Federal action [that] significantly affect[s] the quality of the human environment," NEPA requires the agency prepare an EIS that, among other things, details "the environmental impact of the proposed action." An EIS, however, is not required if*

*the agency first prepares an environmental assessment (EA) providing "sufficient evidence and analysis" that an EIS is not necessary because the proposed action will not significantly affect the quality of the human environment (40 CFR 1508.9).*

*The respondent also contends that the "scale" of the proposed action warrants an EIS. In the context of the ANF as a whole, the Pine Bear proposed actions are small. Neither NEPA nor CEQ regulations (40 CFR 1500) mandate size considerations in determining whether or not an agency should prepare an EIS. The measure provided is an action's potential for "significant environmental impacts." CEQ regulations detail how agencies should fulfill NEPA obligations in preparing a finding of no significant impact (FONSI). CEQ regulations require consideration of context and 10 intensity factors n determining significance (40 CFR 1508.27). Based on the EA, the federal agency (responsible official) shall determine whether an EIS is required. Potential cumulative effects for the project, including past, present, and reasonably foreseeable future timber harvests, road activities, and OGD, will be discussed in the environmental consequences section of the EA. Analysis for this project is being conducted at a sub-watershed scale, which has been used in past projects of a similar scale and with similar proposed activites.*

**14.** The project area has already been impacted by extensive logging activities in previous timber sale projects such as East Side, and Mortality I. The Forest Service must disclose any data it has on how the project area has been affected from these previous projects. For example, what are the figures for percent of areas stocked within 5 years of previous clearcutting and/or "regeneration" cutting? This and other regeneration and reforestation data is critical for measuring the Forest Service's use of even-aged management **(Allegheny Defense Project)**.

***Response:*** *This comment is a non-issue because does not express any clear dispute with the proposed action based on some anticipated effect. It also is a request for additional disclosure, which will be discussed in the cumulative effects analysis for the EA and include the effects of past, present, and foreseeable future actions, including OGD. Data on stocking within five years of regeneration harvests is shown on pages 3–5 of the most recent ANF Monitoring and Evaluation Report (2007).*

**15.** There are 20 areas identified in this Transition EIS process (TEIS) Part I. Three of these areas are adjacent or in the Pine Bear Project area. The TEIS, Part II, predicts "full mine out" conditions in the Pine Bear project area (i.e., wells spaced every 500 feet in a grid across the landscape). What is the current status of these projects now that the TEIS has been but on hold? Has the Forest Service issued notices to proceed for these areas **(Allegheny Defense Project)**?

***Response (clarification):*** *None of the OGD proposals identified in the Transition EIS (TEIS) are located within the Pine Bear project area. TEIS Area 20m, 1 well, Seneca M-190, was not implemented, is no longer proposed, and is 0.4 miles from the project area boundary. TEIS Area 20p, 1 well, Seneca M-190, was also not implemented, is no longer proposed, and is 0.7 miles from the project area boundary. No other proposals from TEIS are closer than 2 miles. Part II analysis was not done from company proposals, but projected future OGD where private mineral ownership could be developed. No other OGD proposals have been submitted in the project area.*

**16. Cumulative Effects**. The footprint of the Pine Bear project is in one of the hardest hit areas on the forest from oil and gas industrialization. This area must be reassessed and managed differently to account for all the other uses of the forest that will be lost to OGD.

The U.S. Forest Service identified TEIS Part I OGD areas 20, 16, and 17 as areas that will be developed within the next 3 years adjacent to the Pine Bear Project area (see areas outlined in red in Figure 3). Further, In the TEIS Part II, the Forest Service predicts that the Pine Bear Project area will see "full-mine-out" conditions (i.e., oil and gas wells placed every 500 feet with infrastructure of roads, tank batteries, etc.) within the foreseeable future.

Given that the management areas in the 2007 Forest Plan were developed in the absence of OGD being recognized as a significant issue, the 2007 Forest Plan now has areas anticipated for "full mine out" conditions designated as wilderness study areas MA 5.2, national recreational areas MA 8.2, late structural linkages (the majority of this MA is anticipated to be in "full-mine-out" from OGD) MA 2.2, scenic areas MA 8.3, research natural areas MA 8.5, and remote recreation areas MA 7.2 **(Allegheny Defense Project)**.

***Response:*** *This is a non-issue because it has already been covered in a higher level analysis. The Forest Plan Niche statement and MA 3.0 desired conditions state the compatibility for intensive OGD in MA 3.0. The Forest Plan analysis considered the presence and future development of oil and gas sites and weighed the impacts on the multiple uses provided by the ANF as evidenced by the following statements:*

> *Forest Plan Niche p.10, "The ANF cooperates in the exploration and development of subsurface oil and gas resources owned by private parties. Work continues with private parties to ensure that surface development associated with subsurface oil and gas extraction causes the least amount of impact… Oil and gas extraction provides a basis for refinery processing and other economic activities that are important to the economic vitality of the four counties and provide important products to the national economy."*
>
> *Forest Plan MA 3.0 Contribution to Desired Condition p.113, "Primarily road-based recreation opportunities are available throughout this management area, and even-aged silvicultural activities are evident on the landscape. Extensive road development provides access to a variety of features for dispersed recreation. A range of recreation opportunities in a roaded natural setting are provided in this management area. Both motorized and non-motorized recreation opportunities are provided… Special uses, utility corridors, road rights-of-way, and intensive oil and gas developments may dominate the landscape at specific sites."*
>
> *See Record of Decision –p.29, "With thoughtful planning, careful mitigation, monitoring of ongoing operations and eventual well-plugging, the revised Forest Plan envisions a future in which minerals under the ground are recovered in a manner that provide for the sustainability and ultimately, the reclamation of surface resources."*

*The Pine Bear EA cumulative effects analysis will evaluate the effects from future OGD on the multiple use values in this MA 3.0 area.*

**17.** The Pine Bear Project is primarily designated as area 3.0, which, among other uses, is designated,

> To contribute to the desired condition by providing a mix of vegetative conditions and quality timber products that contribute to the local and regional economy. Regeneration harvests, along with reforestation treatments would allow for the establishment of an early structural forest, which is characteristic of this management area and helps achieve the desired condition of a diversity of vegetation patterns across the landscape. (ANF LRMP, pp. 113-116).

However, this management area was developed in absence of consideration of OGD as a significant issue in the 2007 Forest Plan. Given the impact of past OGD, and OGD that is predicted for the foreseeable future, it will be impossible for the US Forest Service to maintain the other goals outlined in the LRMP below, especially without first conducting an EIS on the Pine Bear Project.

> To provide a diversity of vegetation patterns across the landscape to represent well- distributed habitats, a range of forest age classes and vegetative stages, a variety of healthy functioning vegetation layers, moderate-to-well stocked forest cover, and the variety of vegetation species and

> forest types necessary to achieve multiple resource objectives and sustain ecosystem health (ANF LRMP, p. 14).
>
> To provide forage and cover for a variety of wildlife species through habitat enhancements. To contribute to the conservation and enhancement of habitat integrity for species with viability concerns by protecting specific habitat elements crucial to the long-term sustainability of species. To provide nesting sites, breeding areas and young-rearing habitat free from human disturbance for species with viability concerns (ANF LRMP, p 14).
>
> To implement non-native invasive plant (NNIP) species treatments that would limit the introduction and/or spread of NNIP species, and conserve forest resources in a manner that presents the least hazard to humans and maintains or restores forest resources (ANF LRMP, p. 13).
>
> To provide a safe, efficient, and economical transportation system that is responsive to public and administrative needs; having minimal adverse effects on ecological processes and ecosystem health, diversity, and productivity; and is in balance with needed management actions (ANF LRMP, p 16).
>
> To maintain, restore, or improve soil quality, productivity, and function. Manage soil disturbances from management activities such that they do not result in long-term loss of inherent soil quality and function (ANF LRMP, p.14).
>
> To maintain or restore watersheds and their associated stream and groundwater processes, channel stability, riparian resources, and aquatic habitats to a functional condition (ANF LRMP, p.14).

Management Area 2.2 is also represented in the Pine Bear Project area, which, among other uses, is designated,

> To contribute to the desired condition by providing predominantly late structural forest habitat that links relatively large areas of older forest, or core areas, across the landscape. Vegetative management would provide complex late structural forest conditions and maintain mast-producing species (ANF LRMP, pp. 109–112).

…The recent grant of a preliminary injunction in *Minard Run v. U.S. Forest Service* (C.A. No. 09-125-SJM) ("*Minard Run II*") requires the Forest Service to seriously reassess all of its management activities in the Allegheny. At the moment, the settlement agreement reached between the Forest Service and Forest Service Employees for Environmental Ethics, ADP and the Sierra Club in *FSEEE v. U.S. Forest Service* (C.A. No. 08-323-SJM) has been preliminarily enjoined and, as a result, the Forest Service can expect oil and gas companies to drill as many oil and gas wells as possible while the injunction is in effect. This potential onslaught of increased oil and gas development requires the Forest Service to reassess its management priorities to account for all the other uses of the forest that will be lost to OGD. The Forest Service must not exacerbate the impacts that have already occurred and are likely to occur in the near future as a result of oil and gas development that is unlike any other national forest in the country.

The Forest Service recently released a Draft SEIS for the 2007 Forest Plan in which every species listed as having viability concerns was declining over the planning period for several reasons, most notably the high level of oil and gas development on the Allegheny. The Forest Service simply cannot continue to operate its timber program like it is 1989. The Forest Service must take steps to actually protect wildlife habitat, not further impact it with even-aged management that only exacerbates the already extensive, forest-wide impacts of oil and gas development **(Allegheny Defense Project)**.

***Response:*** *This is a non-issue because it has already been covered in a higher level analysis. The Forest Plan Niche statement and MA 3.0 desired conditions state the compatibility for intensive OGD in MA 3.0. The Forest Plan analysis considered the presence and future development of oil and gas sites and weighed the impacts on the multiple uses provided by the ANF (see response to non-issue 16). Highlighted goals for MA 3.0 listed by the respondent are driving the need for the proposal – see scoping purpose and need.*

*Approximately 131 acres of MA 2.2 are located the project area. One stand 887045 (25 acres) is proposed for intermediate thinning. There is no OGD in the 131 acres. These small portions of MA 2.2 late-structural linkages connect with and are part of other MA 2.2 along the Spring Creek Road, Big Mill Creek, Spring Creek, and State route 948, the MA 7.2 – Remote Recreation along the Clarion Wild and Scenic River, and State Game Lands 28.*

*Since the preliminary injunction was filed in December 2009 on Minard Run vs. U.S. Forest Service* (C.A. No. 09-125-SJM) *oil and gas drilling proposals have significantly dropped off from levels occurring in the previous 3 years. Since December 15, 2009, the ANF has issued notice to proceeds involving 483 wells, 304 of which were part of the TEIS proposal that was enjoined. We believe the market place factors are determining the number of new proposals not the court decision on the preliminary injunction.*

*The Allegheny National Forest timber program has changed considerably since 1989. The 2007 Forest Plan considered many factors and analyzed four alternatives before selecting the management area mix contained in Alternative Cm. For the decision rationale for habitat diversity and species viability, see Forest Plan ROD, pp. ROD-27 and ROD-28.*

*The Forest Plan identified viability declines for some species over the long term (2060) using a coarse filter approach (mainly based on the mix of management area future habitat conditions). The project level wildlife cumulative effects analysis will use a shorter time frame (to 2030) and focus more on whether the management area conditions desired in the Forest Plan for this project area are progressing. Remote habitats desired across the forest will be monitored and evaluated on a 5 year cycle during the comprehensive monitoring review next scheduled in 2012 (USDA-FS 2007a, p. 51).*

*The Forest Service acknowledges that the SEIS has been put on hold and is not completed at this time. This is not an oil and gas development proposal.*

**18.** Although we recognize that the USFS must end commercial logging on the ANF, and end the practice of "even-aged" management (i.e., shelter-wood seed cuts, creating canopy openings, opening release, opening restoration, and any other pseudonym for a clear-cut), herbiciding, fencing, "releases" for commercially valuable timber species, site preparation or prescribed burning for commercially valuable timber species, regeneration cuts, and other practices not consistent with a science-based management for the ecological health of forested watersheds; … **(Allegheny Defense Project).**

***Response:*** *This is a non-issue because it has already been covered by law and regulation (See Multiple Use Sustained Yield Act – 1960 and National Forest Management Act – 1976) and is not supported by factual evidence. Appendix A–Rationale for Choice of Vegetation Management Practices of the ANF LRMP discusses the rationales for vegetation management, including even-aged management, on the ANF. Most of the Pine Bear project area (all but 131 acres) falls within MA 3.0 – Even-aged Management (ANF LRMP, pp. 113–115). The end of commercial logging on the ANF is beyond the scope of this project.*

**19.** The U.S. Forest Service is continuing to conduct surface mining on the Allegheny without acquiring the required state environmental permits from Department of Environmental Protection (DEP) **(Allegheny Defense Project)**.

***Response****: This comment is a non-issue because it is an opinion and does not express a clear dispute with the proposed action based on an anticipated effect. A state permit is not required because the stone would be used on National Forest System lands. The first exemption listed in the permitting requirements – used by landowner would apply. The proposed stone pit expansion is for construction and maintenance of Forest Service System roads and for stoning log landings.*

**20. Watershed Buffers (Map 2B).** Although it is laudable for the Forest Service to define watershed buffer areas in the project area, these areas are not reflected in the 'treatment' stands. For example, Compartment 872, stand 23, is basically the same width as the buffer. The U.S. Forest Service either plans to ignore the buffer or to remove this stand "treatment" from the project **(Allegheny Defense Project)**.

***Response (clarification)****: Map 2B shows Silvicultural Treatments–Second Entry Timber Harvests. Map 6 shows the areas along streams and wetlands that* ***will be avoided or protected*** *during timber harvests and other proposed activities. Map 6 also shows the riparian corridor buffers as described on pages 74–75 of the Forest Plan and the wetland, including springs, seeps, and vernal pools, buffers as described on pages 77–78 of the Forest Plan. Riparian buffers are put in place on the ground as stands are managed and prior to implementation of the timber harvests or other proposed activities. It is not practical to make separate stands of the riparian buffers. Forest Plan standards and guidelines, including buffers, Pennsylvania BMPs, and project design features would be followed during project implementation to minimize or eliminate effects to streams, springs, seeps, vernal pools, and other wetlands.*

*Although it may appear on the map as stated, stand 872023 is approximately 79 acres in size, but only 24 acres of the stand are being proposed for reforestation treatments including herbicide application, site preparation, tree planting, tree shelters, and release for species diversity. Riparian buffers will be implemented in this stand to protect riparian values.*

**21.** As we have consistently stated for at least the past sixteen years, and as we succinctly explained in ***Allegheny Wild!*** *A Citizen's Vision for the Allegheny National Forest,*

> The U.S. Forest Service should end its commercial logging program in the Allegheny National Forest. There is a need to reverse the process of degradation that has been caused by commercial logging [and unregulated oil and gas development]. By removing the commercial incentive for logging, the Forest Service would be required to limit logging activities only to those that are scientifically proven to be better for native forest biodiversity.
>
> The National Forest Management Act specifically provides that logging should not occur when it compromises the conservation of soils, watersheds, recreation, and wildlife, among other things (36 CFR § 219.27(c)(6)). The Multiple Use and Sustained Yield Act specifically provides that a single use such as logging should not be emphasized on every acre of national forest, or necessarily on every national forest (16 USC § 531 § 4(a)). It is well within the Forest Service's legal rights to prohibit commercial timber production in the Allegheny National Forest as they have done on the Caribbean National Forest (US-Forest Service 1997).
>
> The National Forest Management Act was adopted in order to place limits on the use of even-aged management requiring that conservation of soils, watersheds, recreation, and wildlife be maintained before clearcutting or other "regeneration" cutting can occur (36 CFR § 219.27(c)(6)). In Pennsylvania, the rate of net tree growth has begun to decline as removals and "maturity" catch-up with second-growth forests (McWilliams et al 2002).

> …The USFS must stop commercial logging on the ANF. In absence of this, the USFS must suspend this proposed action given that the entire 2007 Forest Plan is fatally flawed because the Forest Service refused to consider oil and gas drilling as a significant issue throughout the revision process. Preparing a SEIS to "fix" a few parts of that fatally flawed Forest Plan is simply not enough. The Forest Service must comprehensively review the *entire* Forest Plan revision process in light of the legal opinion written by Ronald Mulach on May 24, 2007 and what it says about the Forest Service's adherence to the National Environmental Policy Act (NEPA), National Forest Management Act (NFMA), Multiple-Use and Sustained-Yield Act (MUSYA) and Endangered Species Act (ESA) **(Allegheny Defense Project)**.

***Response:*** *This is a non-issue because it is beyond the scope of the proposed action. An end to commercial logging on the ANF is a national or regional issue and the appropriate level of analysis would be at a higher level and not at a site-specific district level. The no action alternative is responsive to this concern. Furthermore, this project is in conformance with NFMA.*

*This comment also quotes a USDA Office of the General Counsel legal opinion provided to the Forest Service concerning the applicability of NEPA to private oil and gas development on the ANF. As such, the 2007 opinion pertains to private oil and gas development activities and is not relevant to the proposed activities in the Pine Bear Project. The issues surrounding the Forest Service's legal authority regarding private oil and gas development are pending in court.*

**22.** Ground surveys of the proposed logging areas in the Pine Bear Project verify that the Forest Service is continuing its program of black cherry tree farming for a commercially valuable timber species.

The methods and practices described in the Pine Bear Project including the use of "even-aged" management (i.e., shelter-wood seed cuts, creating canopy openings, opening release, opening restoration, and any other pseudonym for a clearcut), herbiciding, fencing, "releases" for commercially valuable timber species, site preparation or prescribed burning for commercially valuable timber species, and regeneration cuts, are not consistent with science-based management for the ecological health of forested watersheds. Further, recovering areas like those along the main stem of Bear Creek, on FR 237 are identified in the Pine Bear Project for clearcutting (i.e., shelterwood seed cuts, shelterwood removal, and intermediate thinning). These areas need to be protected, not commercially logged **(Allegheny Defense Project)**.

***Response:*** *This comment is a non-issue because it is an opinion and is not supported by factual evidence. Appendix A–Rationale for Choice of Vegetation Management Practices of the Forest Plan discusses the rationale for vegetation management, including even-aged management, on the ANF. Most of the Pine Bear project area (all but 131 acres) falls within MA 3.0 – Even-aged Management (ANF LRMP, pp. 113–115). See also response to non-issue 18.*

**23.** The USFS must revisit their 2007 Forest Plan in light of the TEIS "full-mine-out" conditions predicted for many of the management areas across the forest including wilderness study areas MA 5.2, national recreational areas MA 8.2, late structural linkages (the majority of this MA is anticipated to be under "full-mine-out") MA 2.2, scenic areas MA 8.3, research natural areas MA 8.5, and remote recreation areas MA 7.2 **(Allegheny Defense Project)**.

***Response:*** *This comment is a non-issue because it is an opinion and does not express any clear dispute with the proposed action based on some anticipated effect and revisiting or revising the 2007 ANF Forest Plan decision is beyond the scope of this district-level project. No amendments to the Forest Plan are anticipated with this project, but the project could consider amending the Forest Plan (changing MAs given a sound basis for consideration). None were presented other than opposition to even-aged management. Also, there is no MA 5.2, MA 7.2, MA 8.2, MA 8.3, or MA 8.5 and only 131 acres of MA 2.2 within the project area.*

**24.** Any proposed timber "treatments" must be demonstrated to increase water quality and increase species viability across the forest. The U.S. Forest Service's unscientific management of the Allegheny that leads to the continued degradation of its watersheds is a clear violation of the Clean Water Act **(Allegheny Defense Project)**.

***Response:*** *This statement is a non-issue because it is an opinion and is not supported by factual evidence. Forest Plan standards and guidelines, Pennsylvania BMPs, and project design features will be followed to protect streams, springs, seeps, wetlands, and species with viability concerns during project implementation.*

*The viability outcomes in the Forest Plan FEIS (Appendix E) and Draft SEIS (Appendix A) are an index of the capability of the environment to support population abundance and distribution and not an actual prediction of population occurrence, size, density, or other demographic characteristics. A viability outcome is a judgment based on scientific information found in the literature and from discussions with taxonomic experts.*

*Effects to soil and water will be analyzed in the EA. Effects to federally threatened, endangered, and candidate species, to Regional Forester's Sensitive Species, and to other species with viability concerns will be analyzed in the EA, biological assessment, biological evaluation, and wildlife report for the project.*